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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,666	01/10/2001	Jeffery Raymond Ratkus	DN1998124US	5727
26781	7590	07/07/2004	EXAMINER	
BROUSE MCDOWELL INTELLECTUAL PROPERTY GROUP 500 FIRST NATIONAL TOWER AKRON, OH 44308			PRONE, JASON D	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/743,666

Applicant(s)

RATKUS ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Still et al. in view of DE 1282914. Still et al. discloses the invention including a cutting apparatus for cutting ply stock (Abstract) along a cut line between first and second lateral edges (Figs. 5A and 6A), a knife assembly (49), means for moving the knife assembly toward and away from the ply stock (Figs. 16 and 17), means for traversing the knife assembly between a first and a second lateral edge of the ply stock (16), a blade (121) having a cutting portion (Fig. 23) including a leading point (123) and a leading and trailing edge having a length (122 and 124), that the ply stock has spaced first and second lateral edges (12), that the knife assembly traverses across the ply stock to provide severance of the material from the first lateral edge to the second lateral edge (Fig. 10A), a means for heating the knife (Column 11 lines 58-65), that the knife is heated before inserting into the ply stock (Column 11 lines 58-65), that the heating means is near the first lateral edge of the ply stock (Column 11 lines 58-65), and that the leading edge of the cutting portion engages with the ply stock (Fig. 23), and that the leading point is inserted into the ply stock a single time to produce the transverse cut (Column 7 lines 60-64) but fails to disclose that the knife assembly has a

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home position where the leading point of the blade is directly above an insertion point and that the distance between the first lateral edge and the insertion point is less than or equal to the length of the trailing edge. DE 1282914 teaches a knife assembly has a home position where the leading point of the blade is directly above an insertion point and that the distance between the first lateral edge and the insertion point is less than or equal to the length of the trailing edge (Fig. 3). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Still et al. with insertion point, as taught by DE 1282914, to for an easier/ more precise method of cutting the first lateral edge.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Still et al. in view of DE 1282914 as applied to claim 9 above, and further in view of Murphy et al. Still et al. and DE 1282914 disclose the invention but fail to disclose an anvil with a slot aligned with the cut line. Murphy et al. teaches an anvil (36) with a slot (38) aligned with the cut line (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Still et al. in view of DE 1282914 with an anvil, as taught by Murphy et al., to allow for a more efficient cut.

Response to Arguments

4. Applicant's arguments filed 22 April 2004 have been fully considered but they are not persuasive. The claims require a method and apparatus that creates a transverse cut with a single insertion of the blade into the tire ply stock. The Still et al. clearly discloses a knife that performs a transverse cut with a single insertion. The second insertion is to create a whole new transverse cut. In the Still et al. patent, each

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transverse cut only requires one insertion of the knife into the ply stock. Also, there are no limitations in any of the claims that prevent a reference that incorporates a plunging sequence from reading on any of the claims. Therefore, the rejection is valid and will remain.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 703-605-4287. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JP
July 01, 2004



Allan N. Shoap
Supervisory Patent Examiner
Group 3700